IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

WP(C).No. 28400 of 2006(E)

PETITIONER:

K.S.JAYAKUMAR,
EXCISE GUARD, EXCISE RANGE OFFICE,
NEDUMANGADU, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.DEEPU THANKAN
SRI.K.K.RAJEEV (PUNNAPURAM)

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
TRANSPORT (C) DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. REGIONAL TRANSPORT OFFICER,
NATIONALISED SECTOR, FORT, THIRUVANANTHAPURAM.

3. ASSISTANT EXCISE COMMISSIONER,
EXCISE DIVISION OFFICE, FORT P.O.,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO.28400 of 2006

Dated this the 18th day of December, 2006

JUDGMENT

I find no error in the order passed by the Government, as per Ext.P4, rejecting the request of the petitioner to go back to his parent department, namely, Motor Vehicles Department, as he will not get the statutory protection guaranteed under Rule 8 of Part II of KS & SSR. Admittedly, the petitioner held the post of peon in the Motor Vehicles Department. Post of peon comes within the category of last grade servants. Special Rules for the last grade servants specifically states that except the rules which are specifically mentioned therein, other provisions in the Kerala State and Subordinate Service Rules will not be applicable to the members of that service. There is no mention about Rule 8 of KS & SSR in the Last Grade Service Rules. Therefore, the stand taken by the Government, is perfectly right. The contention of the petitioner that since he belongs to the category in the Excise Guard, he has got the right to go back to his parent department is not sustainable because it is not the post that he now holds but the post held by him in the parent department. Hence, this writ petition is liable to be dismissed. I do so.

2. Learned counsel for the petitioner submits that the

Government had granted similar reliefs to similarly situated persons as can be seen from Ext.P5 order dated 27.4.2006. This Court will not grant reliefs placing reliance on an order in the nature of Ext.P5. If the petitioner feels appropriate to approach the Government by filing a petition for review, he may do so. The dismissal of this petition will not stand in the way of the Government passing fresh orders, if found appropriate in the interest of justice.

K.K.DENESAN, JUDGE

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